

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Flint Memorial Library)	File No. NEC.471.05-08-0032500001
North Reading, Massachusetts)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: June 12, 2001

Released: June 13, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Flint Memorial Library (Flint), North Reading, Massachusetts, seeking a waiver of the Commission's rules governing the filing window deadlines for applications for discounts under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we deny Flint's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.³ The Administrator must post the FCC Form

¹ Letter from Nancy Sheehan, Flint Memorial Library, North Reading, Massachusetts, to Federal Communications Commission, filed August 16, 2000 (Waiver Request).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

470 on its website and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵

3. The Commission's rules allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁶ Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.⁷ Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

4. The application window for Funding Year 2 closed on March 31, 2000.⁹ Flint filed its FCC Form 471 on May 8, 2000, after the filing window had closed. By letter dated July 19, 2000, SLD notified Flint that SLD was returning Flint's application without processing it because it was submitted after the closed of the filing period.¹⁰ SLD also indicated that Flint could appeal SLD's decision to the Commission.¹¹ In response, Flint filed the instant Waiver Request with the Commission.¹² Flint stated that it believed that it had complied with the deadline but was aware that it was delinquent in applying for the discount.¹³

5. We have reviewed the record before us and conclude that Flint has not demonstrated a reasonable basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁴ In its Waiver Request, Flint asserts

⁴ 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.507(c).

⁸ 47 C.F.R. § 54.507(g).

⁹ See SLD's website, <<http://www.sl.universalservice.org>>. SLD announced that it would consider applications for Year 2 (July 1, 1999 – June 30, 2000) that were received after April 6, 1999 and before March 2, 2000 (i.e. after the original filing window deadline of April 6, 1999 had closed).

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Sheehan, Flint Memorial Library, dated July 19, 2000.

¹¹ *Id.*

¹² Waiver Request.

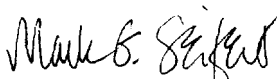
¹³ *Id.*

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

that the use of the library's public Internet access had increased 18% over the last year.¹⁵ This assertion does not persuade us that the public interest is served by granting a waiver of our filing window rules. When requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities.¹⁶ The applicant ultimately bears the responsibility of completing the relevant forms and submitting them to SLD within the established deadline if the applicant wishes to be considered with other in-window applicants. Thus, by filing late, Flint ran the risk of not receiving any funding. Because we find no basis for waiver of the filing window deadline, Flint is subject to the funding priorities set forth in Section 54.507(g).

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Waiver Request filed by Flint Memorial Library, North Reading, Massachusetts, on August 16, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹⁵ Waiver Request.

¹⁶ See *Request for Review by Anderson School Stratsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association*, File No. SLD-13364, CC Dockets No. 95-45 and 97-21, Order, DA 00-2630 (Com. Car. Bur. Rel. Nov. 24, 2000), at para. 8 ("In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.")